

II. Claim Rejections - 35 U.S.C. § 103

The Examiner rejected claims 1, 2, 4, 11, 12, 14, 21, 22, 24, 27, 28, and 30 under 35¹ U.S.C. §103(a) as being unpatentable over Kanemoto *et al.* (EP 1 113 593 A1) [“Kanemoto”] in view of Chuah *et al.* (US 6,693,952) [“Chuah”]. For at least the following reasons, Applicant traverses the rejection.

Claim 1 recites a cellular system that comprises a “base station comprising means for sending a first signal including information to said mobile station using a shared channel ... [and a] mobile station comprising means for receiving said first signal ... wherein said system comprises reliability increasing means for increasing reliability of control information.” The Examiner contends that the downlink shared channel (DSCH) disclosed in Chuah corresponds to the claimed first signal and that the code sent by the base station to the mobile station corresponds to the claimed reliability increase means. Office Action at page 3.

In general, Applicant submits that, in the invention as set forth in claim 1, when information is transmitted on the shared channel, the reliability of the signal, which is being transmitted on the dedicated channel, is increased during the period when the information is being transmitted. That is, the reliability of the signal transmitted on the dedicated channel is increased, not the signal on the shared channel. Thus, Applicant submits that the Examiner’s contentions with respect to the alleged correspondence between the disclose of Chuah and the claimed features is incorrect.

¹ The Examiner confirmed on February 1, 2005, in a telephonic communication that the listing of the rejected claims in the body of the Office Action is incorrect and that the listing in the Office Action Summary Sheet is correct.

In addition, contrary to the Examiner's suggestions, Applicant submits that the reliability of a signal is not increased simply by transmitting the signal.

Further, Chuah discloses that a user is assigned a temporary code for the DSCH for use within a frame-by-frame basis. Any user who shares the DSCH is assigned a dedicated downlink traffic channel for communication. See Col. 2, lines 2-10. Chuah also discloses that its invention is applicable to any application that requires the allocation of codes (col. 6, lines 2-3).

Thus, Applicant submits that Chuah makes clear that the code used by the DSCH is required for communication. Accordingly, if, for the sake of argument alone, the DSCH corresponds to the claimed first signal, then, to be consistent with the claimed features, the code required by the DSCH communication must inherently be part of the claimed means for sending a first signal and the claimed means for receiving the first signal in order for the sending and receiving to even work.

Because the sending of the code is inherent to any alleged "sending means" and "receiving means" that may be disclosed in Chuah, Applicant submits that the Examiner cannot use the sending of the code to also contend that it discloses the claimed reliability increasing means since the claimed reliability increasing means is a separate claimed element. Accordingly, the Examiner's use of the same feature in Chuah to contend that it allegedly discloses two separate claimed elements is improper. Therefore, Applicant submits that the Examiner has not made *prima facie* case of obviousness.

Because independent claims 11, 21 and 27 recite features similar to that given above with respect to claim 1 and the Examiner's rejections are similar to that given above with respect to

claim 1, Applicant submits that these claims are patentable for at least reasons similar to those given above with respect to claim 1.

Applicant submits that claims 2, 4, 12, 14, 22, 28 and 30 are patentable at least by virtue of their respective dependencies.

III. Allowable Subject Matter

Applicant thanks the Examiner for finding allowable subject matter in claims 3, 5-10, 13, 15-20, 23, 25, 26, 29 and 31-35 and for indicating that these claims would be allowable if rewritten in independent form.

Applicant holds rewriting these claims in abeyance until the subject matter regarding their base claims is resolved.

IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Response Under 37 C.F.R. § 1.111
U.S. Serial No. 10/037,212

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

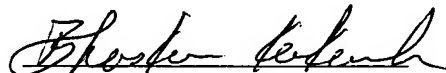
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